

## **BILL ANALYSIS**

C.S.H.B. 393  
By: Goldman  
Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Tennessee Legislature passed a bill in 2022 that addressed the issue of restitution for children whose parents are victims of DUI intoxication manslaughter. Currently, in Texas, if a child loses a parent who was a victim of DUI intoxication manslaughter, the perpetrator is not liable for restitution payments to the victim's child. This creates an additional financial burden for an already impacted family. C.S.H.B. 393 seeks to lessen this burden by requiring those who commit DUI intoxication manslaughter to pay restitution to the child or children of the victim until the child or children are 18 years old or graduate from high school, whichever is later.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 393 amends the Code of Criminal Procedure to require a court to order a defendant convicted of intoxication manslaughter to pay restitution for a child whose parent or guardian was the victim of the offense. The bill provides the following:

- a restitution order issued under the bill's provisions may be enforced by the office of the attorney general, or by a person or a parent or guardian of the person named in the order to receive the restitution, in the same manner as a judgment in a civil action;
- the court must determine the amount of monthly restitution payments to be paid for the support of the child until the child reaches 18 years of age or has graduated from high school, whichever is later; and
- the defendant may not be required to pay restitution under the bill's provisions to an individual who is 19 years of age or older.

C.S.H.B. 393 requires the court to determine an amount for restitution that is reasonable and necessary to support the child, considering all relevant factors, including:

- the financial needs and resources of the child and the surviving parent or guardian;
- if the Department of Family and Protective Services (DFPS) has been appointed as the child's temporary or permanent managing conservator, the state's financial resources;
- the standard of living to which the child is accustomed;
- the physical and emotional condition of the child and the child's educational needs;
- the child's physical and legal custody arrangements;
- the reasonable work-related child care expenses of the surviving parent or guardian or other current guardian, if applicable; and

- the financial resources of the defendant.

C.S.H.B. 393 requires a defendant who is unable to make the required payments because the defendant is confined or imprisoned in a correctional facility to begin payments not later than the first anniversary of the date of the defendant's release from the facility. In addition, the bill provides the following:

- the defendant may enter into a payment plan to address any arrearage that exists on the defendant's release date; and
- the defendant must pay all arrearages regardless of whether the restitution payments were scheduled to terminate while the defendant was confined or imprisoned in the correctional facility.

C.S.H.B. 393 requires a restitution order to require restitution payments to be delivered directly to the person or agency that will accept and forward the payments or to a community supervision and corrections department for applicable transfer to be directed to the child's parent or guardian or to DFPS, as appropriate. In addition, the amount of restitution paid under the bill's provisions must be deducted from any civil judgment against the defendant as provided by the state law that reduces any amount recovered by a victim by any amount previously paid to the victim by the person under an order of restitution.

C.S.H.B. 393 applies only to an offense committed on or after the bill's effective date. The bill provides for the continuation of the law in effect before the bill's effective date for purposes of an offense, or any element thereof, that occurred before that date.

#### **EFFECTIVE DATE**

September 1, 2023.

#### **COMPARISON OF INTRODUCED AND SUBSTITUTE**

While C.S.H.B. 393 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes in the factors that the court must consider in determining an amount for restitution that is reasonable and necessary to support the child the financial resources of the defendant, which was not included as a factor for consideration in the introduced. The substitute includes the option, not in the introduced, for the court's order to require the restitution payments to be delivered directly to the person or agency that will accept and forward the payments, as an alternative to requiring the payments to be delivered to a community supervision and corrections department for applicable transfer.

The substitute changes the authorization in the introduced for the state to enforce a restitution order to an authorization for the office of the attorney general to do so.